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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,066	08/21/2003	Elliot A. Gottfurcht	4346P001X3	8436
25227	7590	12/13/2005	EXAMINER	
MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 300 MCLEAN, VA 22102			CHAMPAGNE, DONALD	
		ART UNIT		PAPER NUMBER
				3622

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/646,066	GOTTFURCHT, ELLIOT A.
	Examiner Donald L. Champagne	Art Unit 3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 17 October 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 21,22 and 29 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 and 23-28 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 17 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3 Aug 04 &amp; 4 Feb 05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of invention A, claims 1-20 and 23-28, in the reply filed on 17 October 2005 is acknowledged. Claims 21, 22 and 29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 2, 3, 12 and 13 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the remaining claims, does not reasonably provide enablement for claims 2, 3, 12 and 13. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to practice the invention commensurate in scope with these claims. The claims describe "content" that "is a set of products/sellers". Content is widely understood to be information, whereas "products" and "sellers" are not information, so the claims are illogical. This rejection can be overcome by amending the claims to read "... wherein the content is described a set of ...".

### *Claim Rejections - 35 USC § 102 and 35 USC § 103*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 3622

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
6. Claims 1-9, 11-19 and 23-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Herz et al. (US006571279B1).
7. Herz et al. teaches (independent claims 1 and 11) a method and a machine-readable medium containing said method, the method comprising: receiving a plurality of bids at a processor (*each advertiser bids*) each of the bids comprising a *price function P(l)*, which reads on a bid amount (col. 5 lines 26-28); associating the received bids with time or location factors and storing the bids and associated time or location factors in a memory (col. 6 lines 48-53, col. 10 lines 53-55 and col. 11 lines 52-54); determining content for display (*information that is displayed*) based on the time or the location factors (col. 1 lines 48-54); ranking the plurality of bids based on a comparison of the bid amounts using the processor, and selecting content for display on a user terminal based on the ranking of the bids (col. 11 lines 54-59).
8. Herz et al. also teaches at the citations given above claims 2, 3, 5, 12, 13 and 15, because advertising reads on content and ads inherently describe a set of products and sellers; claims 4 and 14; and claims 24 and 27.
9. Herz et al. also teaches claims 6 and 16 (col. 1 line 39 and col. 10 lines 58-64); claims 7 and 17 (col. 25 line 30); claims 8 and 18 (col. 7 lines 24-24); claims 9 and 19 (col. 11 lines 13 and 22); and claims 23 and 26 (col. lines 59-62 and 17-22, and col. 5 lines 22-23); and claims 25 and 28 (col. 14 lines 32-34, where *voice recognition and text analysis* reads on a key word search).
10. Claims 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al. (US006571279B1). Herz et al. does not teach interactive television using a simplified navigation system. Official notice is taken (MPEP § 2144.03) that interactive television was well known at the time of the instant invention. Furthermore, any simplification in TV navigation reads on “a simplified navigation system”. Because the well known is obvious, it

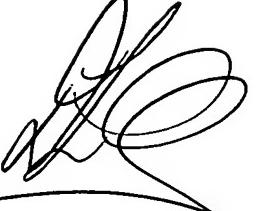
would have been obvious to one of ordinary skill in the art, at the time of the invention, to add interactive television using a simplified navigation system to the teachings of Herz et al.

### ***Conclusion***

11. The references made of record and not relied upon are considered pertinent to applicant's disclosure. The following references were found to teach significant aspects of the instant invention: Goldhaber et al. (US005794210A), Feezell et al. (US006253189B1), Roth et al. (US006285987B1, made of record by applicant) and Shkedi (US 20050246231A1).
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L Champagne whose telephone number is 571-272-6717. The examiner can normally be reached from 6:30 AM to 5 PM ET, Monday to Thursday. The examiner can also be contacted by e-mail at [donald.champagne@uspto.gov](mailto:donald.champagne@uspto.gov), and *informal* fax communications (i.e., communications not to be made of record) may be sent directly to the examiner at 571-273-6717.
12. The examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).
14. **ABANDONMENT** – If examiner cannot by telephone verify applicant's intent to continue prosecution, the application is subject to abandonment six months after mailing of the last Office action. The agent, attorney or applicant point of contact is responsible for assuring that the Office has their telephone number. Agents and attorneys may verify their registration information including telephone number at the Office's web site, [www.uspto.gov](http://www.uspto.gov). At the top of the home page, click on Site Index. Then click on Agent & Attorney Roster in the alphabetic list, and search for your registration by your name or number.

Art Unit: 3622

DONALD L. CHAMPAGNE  
PRIMARY EXAMINER



Donald L. Champagne  
Primary Examiner  
Art Unit 3622

2 December 2005